HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 19920 of 1997

DATED: 14-03-2007

Between:

Rajam Nageshwar Rao

…Petitioner

and

Chairman, Sri Visakha Grameena Bank,
Head Office, Srikakulam and another

…Respondents.

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 19920 of 1997

ORAL ORDER:

In substance, the petitioner seeks regularization of service with effect from the date of his continuous engagement i.e., from 3-7-1982 in the service of the Visakha Grameena Bank. The Visakha Grameena Bank has not been impleaded as the respondent in this writ petition. Only the Chairman, Visakha Grameena Bank has been impleaded.

The petitioner claims to have been appointed as a Messenger-cum-Sweeper on a temporary daily wage basis in the Bank on 3-7-1982 and to have worked at different branches of the Bank thereafter. As on the date of the writ petition, he is working at Kumili with effect from 16-11-1994. He asserts that his services were confirmed and regularized with effect from 18-3-1989 though his services were regularly and continuously utilized from the date of his initial appointment. The petitioner pleads that some Unions had filed writ petitions before the Supreme Court of India seeking regularization of temporary daily wage sweepers, since re-designated as Messengers, with effect from the date of their continuous engagement with all consequential benefits. Those writ petitions are stated to have been disposed of by the Supreme Court directing the petitioner Unions to approach the National Industrial Tribunal. According to the petitioner, the National Tribunal passed an award dated 20-4-1990 declaring that the duties and functions of the officers and other employees in the comparable posts of Rural branches of sponsored banks are similar to

the duties and functions of the employees in the principal branch and the employees of both would be entitled to parity of pay. Through equivocal pleadings, it is suggested that his services were regularized by the Bank with effect from
18-3-1989 without reckoning his previous temporary service, though continuous. The petitioner, therefore, seeks the relief already adverted to.

The 1st respondent has filed a counter pleading that the petitioner had worked as Part Time temporary daily wage sweeper and not as Messenger-cum-Sweeper. No regular appointment in the post of a Sweeper/Peon/Messengers in Regional Rural Banks could be made on account of the instructions of the Government of India in the letters dated 27-9-1980, 16-12-1980 and 28-5-1981. On account of this position, Banks were engaging Sweepers or Messengers only on temporary and on daily wage basis. Thereafter, the Employees Association demanded employment of at least some of such employees on a full time basis in some branches. According to an understanding reached with the Employees Association, various branches were categorized into three groups based on their business levels. The first category of branches were allowed to engage persons on full time, the second category of branches for 5 hours 15 minutes and the third category for 4 hours, and the wages were determined accordingly.

Further, according to the 1st respondent, the petitioner was appointed as Part Time Messenger-cum-Sweeper vide appointment order dated 26-12-1987 and was offered an option either to draw half of the monthly emoluments of group D employees of the State Government (in view of the fact that the petitioner's services were engaged only for 4 hours a day) or the existing wages paid to him. The petitioner opted for drawing existing wages. The petitioner was accordingly permitted to draw the wages as opted by him. He is therefore, disentitled to plead or claim to the contrary. The 1st

respondent's counter further states that subsequently the Regional Rural Banks were permitted to create additional full time Messenger-cum-Sweeper posts on the basis of the business levels of a particular branch and accordingly all eligible Part Time Messenger-cum-Sweepers were absorbed as full time Messenger-cum-Sweepers on the basis of the seniority of their temporary/ casual service in the category of Messengers-cum-Sweepers. The services of the petitioner were accordingly regularized in one of such additional posts created, on 16-3-1989. The Bank categorically and clearly denies any entitlement of the petitioner to reckon his seniority for any purpose whatsoever, with effect from the date of his initial appointment in 1982.

The petitioner has also failed to show any legal principle on the basis of which his temporary service has to be reckoned for the purpose of regularization of his services.

Though the petitioner was regularized in the additional post of Messenger-cum-Sweeper with effect from 16-3-1989 he has filed the writ petition after a period of eight years i.e., in 1997. The writ petition is also barred by delay and laches.

For the aforesaid reasons, there are no merits in the writ petition and the same is accordingly dismissed, after hearing Sri G.Simhadri, learned counsel for the petitioner.

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GODA RAGHURAM, J

14-03-2007
GRR